IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5702 OF 2006

Smt. Sunita M. Panday ..Petitioner

Vs.

1. The Raigad District Central Co-Op. Bank Ltd. Pen, Dist-Raigad and anr. ..Respondents

Mr. Sandesh D. Patil for petitioner.
Mr. G.S. Hiranandani h/f Mr. C.G. Gavnekar for respondents.

CORAM: B.H. MARLAPALLE, J.

Date : August 28, 2006.

P.C.:

1. Heard Mr. Patil the learned counsel for the petitioner. The petition impugns an interlocutory order passed by the learned Member of the Industrial Court at Thane on 11/7/2006 thereby rejecting the application below Exh.U-2 filed in Complaint (ULP) No.147 of 2006. The complainant had prayed that the Management should be restrained from proceeding with the disciplinary inquiry against her.

2. The petitioner along with other six employees came to be transferred by the order dated 28/1/2005

from Panvel Branch, where she was holding the post of Accountant to Shrivardhan Branch as a cashier but in the same payscale. It was not convenient for her to work at Shrivardhan and more so when she was required to travel almost six hours everyday from Vashi, where she is residing and, therefore, she submitted her resignation on 2/2/2005, which was received by the Bank on 4/2/2005. The Bank by its letter dated 7/2/2005 informed the petitioner that her resignation could not be accepted as some lapses/mis-conducts on her part required investigation. She submitted a representation on 23/2/2005 pointing out to the Bank that under the service Rules the resignation submitted could not be rejected. The Bank retaliated and issued a charge-sheet dated 12/7/2005 and one of the three charges is that she on her transfer submitted a resignation rather than reporting at the place of transfer. The petitioner, therefore, approached the Industrial Court at Thane in Complaint (ULP) No.147 of 2006 filed under Items 9 and 10 of Schedule IV of the M.R.T.U. and P.U.L.P. Act 1971 alleging that the Bank had violated the Service Rules, Settlement as well as the Standing Orders and by way of interim relief she had prayed for restraining the Bank to

proceed with the inquiry against her. This prayer has been rejected by the impugned order.

3. In the body of the complaint there are prayers from (a) to (o), but there is no prayer seeking a declaration that the petitioner ceased to be an employee of the Bank and the Bank had no authority in law to reject the resignation letter. Consequently, the Industrial Court held that the petitioner being in the employment of the Bank, the inquiry proceedings or disciplinary proceedings could not be stayed. It referred to Clauses 47 to 50 of the Service Rules. Having regards to the reliefs sought for in the main complaint, it cannot be said that the Industrial Court committed an error apparent on the face of the record so as to call for interference in its interlocutory order. The petitioner may approach the Industrial Court and seek an amendment in the complaint and point out to the Industrial Court that the Service Rules do not provide for discretion with the Management to reject a resignation letter in contemplation of the disciplinary action or an on going disciplinary inquiry against her. As of now, there is no case made out to entertain this petition under Article 227 of

the Constitution.

4. Hence, the petition is rejected summarily, but with liberty to the petitioner as is available in law.

(B.H. Marlapalle,J.)